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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,831	01/16/2004	Kenya Uomori	MTS-3185US4	4770
23122	7590	05/21/2007		
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			EXAMINER ALSOMIRI, ISAM A	
			ART UNIT 3662	PAPER NUMBER
			MAIL DATE 05/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/759,831

Applicant(s)

UOMORI ET AL.

Examiner

Isam Alsomiri

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27, 28 and 35 is/are pending in the application.
- 4a) Of the above claim(s) 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27, 28 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/463,530.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 27 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorimachi et al US 4,867,570.**

Referring to claim 27, Sorimachi discloses in figures 1 and 6-7 a camera for shape measuring or object extracting (see Abstract), having light-emitting means of irradiating an object with projected light having a specified radiation pattern ( $W_1$  and  $W_2$ ), for image-picking up reflected light of the light-emitting means from the object to obtain a depth image using light intensity of an image picked up (see col. 4:11-12), comprising: recording media (4) for recording depth distances of pixels on the image picked up ( $D'_1$  and  $D_1$ ), the depth distances being calculated based on two fields of the image, which have been taken by using different radiation patterns; object extracting means of extracting an object which exists within a range of a depth distance denoted by the user~ by using the recorded depth distances (see col. 2:46-49).

Referring to claim 35, further Sorimachi teaches a camera or a device that can extract a color image for the object which exists within the range of the depth distance denoted by the user (see col. 1:59-61 and col. 2:56-49).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sorimachi et al US 4,867,570 in view of Katayama et al US006404936B1 and Takaha US006021221A.**

Sorimachi teaches a display panel for displaying the extracted object (col. 5:40-45). Sorimachi is silent about a portion taken for the background or foreground with respect to the displayed object by a malfunction in an extracting process is denoted by the user, whereby the erroneous background or foreground extracting operation is corrected. However, extracting or deleting background/foreground or any other unwanted features in an image could be done by well known image processing (editing). Katayama teaches an imaging processing tool or software that modifies an image to remove any erroneous or unwanted parts of the image like background/foreground or other parts (see col. 1 lines 9-12, 42-55, col. 3 lines 7-9, col. 5 lines 49-60). It would have been obvious to modify Sorimachi to include the image processing step to extract or delete erroneous background or foreground by image processing for clearer images of object and faster processing. Further, controlling the operation by touching a panel instead of using a mouse for example is well known. Takaha teaches an image processing apparatus including a touch panel (see col. 9

lines 46-50). It would have been obvious to modify Sorimachi to include the touch panel as an alternative method of input device for the user for faster input and control.

### ***Response to Arguments***

Applicant's arguments with respect to claims 27-28 and 35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isam Alsomiri whose telephone number is 571-272-6970. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

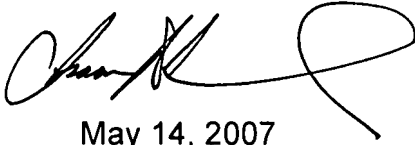
Application/Control Number: 10/759,831

Page 5

Art Unit: 3662

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Isam Alsomiri

A handwritten signature in black ink, appearing to read 'Isam Alsomiri', with a large, stylized loop at the end.

May 14, 2007